

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BETTIE ILA BAKER, wife, ROGER LEE
BAKER, husband,

Plaintiffs,

v.

LINDA SCHMIDT, JUDSON GRAY,
ANTHONY F. TAYLOR, EDWIN J.
WHEELER,

Defendants.

Case No. C05-5452FDB

ORDER DISMISSING CIVIL
RIGHTS CLAIM AND REMANDING
REMAINDER OF CASE TO PIERCE
COUNTY SUPERIOR COURT

Plaintiff Bettie Ila Baker was the subject of guardianship proceedings in Pierce County Superior Court. Defendants are, respectively, the administrator of Bettie Ila Baker's nursing home, the attorney for the nursing home's owner, Bettie Ila Baker's attorney, and her guardian *ad litem*. Plaintiff Roger Lee Baker purports to remove the guardianship and to bring a civil rights claim.


All defendants have moved for dismissal and remand of this cause of action and join in each other arguments. Defendants argue (1) that Roger Lee Baker has no right, power, or authority to file a complaint on behalf of Bettie Ila Baker; (2) that this matter was untimely removed; and (3) that the civil rights action should be dismissed for lack of jurisdiction pursuant to (a) the *Rooker-Feldman* Doctrine (*District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983) and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415 (1923)); (b) or abstain from exercising jurisdiction when there is a pending state proceeding, pursuant to *Younger v. Harris*, 401 U.S. 37 (1971); or (c) because federal courts should not become involved in family law matters. *Peterson v. Babbitt*, 708 F.2d 465, 466 (9th Cir. 1983). No claim is stated against Guardian *Ad Litem* Taylor and, in any event, he is immune from suit for performance of his duties on behalf of the Pierce County Superior Court.

1 Defendants' arguments are well taken. The Court has an independent duty to examine
2 jurisdiction in removed matters, as well, reaches the same conclusions, and finds no reason for delay
3 of this order. For all the above cited reasons, more fully elaborated in the Defendants' motions, this
4 cause of action must be remanded and the civil rights claims dismissed. Defendants Schmidt and
5 Wheeler have shown good cause in support of their Motion To File and Serve Pleadings in the
6 Traditional Manner, and the motion will be granted. Plaintiffs' pending two motions for injunctive
7 relief must be denied in view this remand and dismissal order.

8 ACCORDINGLY, IT IS ORDERED:

- 9 1. Defendant Taylor's Motion To Remand Guardianship And Dismiss Civil Rights Claim
10 [Dkt. # 15] is GRANTED,
- 11 2. Defendant Judson Gray's Motion To Dismiss Complaint Pursuant to FRCP 12(b)(6)
12 And To Remand [Dkt. # 17] is GRANTED;
- 13 3. Defendants Schmidt and Wheeler's Motion To Dismiss [Dkt. # 20] is GRANTED;
- 14 4. Defendants Schmidt and Wheeler's Motion To File and Serve Pleadings in Traditional
15 Manner [Dkt. # 19] is GRANTED;
- 16 5. Plaintiffs' Motion for Emergency Injunctive Relief and Partial Judgment on the
17 Pleadings [Dkt. # 10] is DENIED;
- 18 6. Plaintiffs' Motion for Injunction Against the State of Washington [Dkt. # 12] is
19 DENIED;
- 20 7. The remainder of this cause of action is REMANDED to Pierce County Superior
21 Court.

22 DATED this 17th day of August, 2005.

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24 FRANKLIN D. BURGESS
25 UNITED STATES DISTRICT JUDGE
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